

The opinion in support of the decision being entered today
was **not** written for publication and
is **not** binding precedent of the Board.

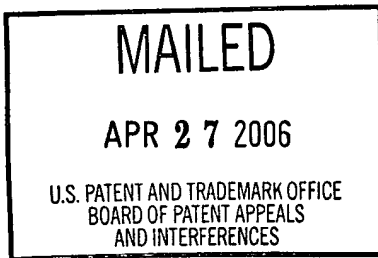
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte OLIVIER FONCARNIER

Appeal No. 2006-0666
Application No. 09/407,738

ON BRIEF



Before: THOMAS, MACDONALD and NAPPI, **Administrative Patent Judges.**

NAPPI, **Administrative Patent Judge.**

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 of the final rejection of claims 1 through 24. For the reasons stated *infra* we affirm-in-part the examiner's rejection of these claims.

Invention

The invention relates to a system for broadcasting information and alarm messages to selected users in a data transmission network. See page 2 of appellant's specification.

Claim 1 is representative of the invention and is reproduced below:

1. System for broadcasting alarm messages from a server to a list of users among a plurality of multi-platform users sharing the server in a data transmission network operating under Internet Protocol (IP) and using Java language, said system being characterized in that it comprises:

a profile table containing profiles of each one of said plurality of users;
and

processing and transmitting means enabling an administrator associated with said server to transmit alarm messages to the list of users wherein said users have been selected from said profile table, said alarm messages being displayed on a screen of a workstation associated with each selected user if said workstation is running.

References

The references relied upon by the examiner are:

Raffel et al. (Raffel)	US2002/0082892	Jun. 27, 2002 (effectively filed Aug. 27, 1998)
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Stupek Jr. et al. (Stupek, Jr.)	6,131,118	Oct. 10, 2000
Ruckdashel	6,038,542	Mar. 14, 2000
Cote et al. (Cote)	6,021,262	Feb. 1, 2000

Drala software, "Event Notifier, a Pattern for Event Notification", SIGS Publications Java Report, vol. 3, no. 7, July 1998, pp 1-17.

Rejections at Issue

Claims 1, 8, 15, 22 through 24 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Ruckdashel. Claims 1, 8, 15, 22 through 24 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Raffel. Claims 1, 8 and 15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Stupek. Claims 2 through 4, 7, 9, 10, 11, 14, 15, 17, 18 and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Stupek in view of Drala. Claims 6, 13 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Stupek in view of Drala and Cote. The examiner has withdrawn the rejection of claims 22 through 24 under 35 U.S.C. § 112 and the rejection of claims 5, 12 and 19 under 35 U.S.C. § 103.

Opinion

We have carefully considered the subject matter on appeal, the rejections advanced by the examiner, and the evidence of anticipation and obviousness relied upon by the examiner as support for the rejections. We have, likewise, reviewed and taken into consideration, in reaching our decision, appellant's arguments set forth in the briefs along with the examiner's rationale in support of the rejections and arguments in rebuttal set forth in the examiner's answer. With full consideration being given to the subject matter on appeal, the examiner's rejections and the arguments of appellant and the examiner, and for the reasons

stated *infra* we sustain the examiner's rejections of claims 1, 8, 15 and 22 through 24 under 35 U.S.C. § 102 as being anticipated by Raffel. However, we will not sustain the examiner's rejections of claims 1, 8, 15 and 22 through 24 under 35 U.S.C. § 102 as being anticipated by Ruckdashel or the examiner's rejections of claims 1 through 24 under 35 U.S.C. § 103.

Initially, we note that the examiner's final rejection did not include a rejection of claims 1, 8 and 15 under 35 U.S.C. § 102 as being anticipated by either Raffel or Ruckdashel. The first time claims 1, 8 and 15 were identified as being rejected under 35 U.S.C. § 102 as being anticipated by either Raffel or Ruckdashel was in the Answer. However, appellant's brief and reply brief both presented arguments directed the limitations of claims 1, 8 and 15 in relation to the disclosures of Raffel and Ruckdashel. Thus, the record shows that appellant anticipated the rejection of claims 1, 8 and 15 under 35 U.S.C. § 102 as being anticipated by either Raffel or Ruckdashel. Further, as appellant has not contested whether the examiner's new ground of rejecting claims 1, 8 and 15 is properly before us, we consider appellant to have waived such an argument and we consider the new grounds of rejection to be properly before us for review.

Rejections based upon Stupek

Appellant argues, on page 9 of the brief:

Stupek is concerned with performing network management functions, much like the Simple Network Management protocol (SNMP) and the Desktop Management Interface (DMI), across the Internet using a web browser. Although Stupek may allow for the client to define certain preferences and identify certain data to be monitored, there is nothing in Stupek that teaches or even suggests an administrator associated with a

server sending alarm messages to a list of users, selected from a plurality of users within a profile table as recited in claims 1, 8 and 15 of the present invention.

Appellant asserts that the sections of Stupek that the examiner relies upon to support this teaching describe the interaction between a user and the management server, but that Stupek does not teach transmitting an alarm message to users selected from a list of users in a profile table.

On page 3 of the answer, the examiner identifies that the term "profile table" is interpreted as "a table for storing users' profile information, which is equivalent to Stupek's database, which also storing user profile or preference information (Stupek at col. 5, lines 50-53)." Further, the examiner identifies, on pages 3 and 4 of the answer, that the term "the list of users" is interpreted as "a conventional database filtering manner to form a list or group of uses [sic, users] for receiving alarm, for instance, selecting by name, demographic, activity, hobby, preference, information subscribing type, communication devices type, or other information, which may be included in users profile." In response to appellant's arguments the examiner asserts, on page 13 of the answer, that Stupek in col. 1, line 63 through col. 2, line 15 and col. 5, line 47 through col. 6, line 15, discloses a network management system capable of transmitting alarm, event notification to a group of managed devices, which have their profile stored in database, e.g. profile table. Further, the examiner asserts: "It would have been obvious to one of ordinary skill in the art to expand the used [sic, user] of Stupek by merely modifying roll [sic, the role] of [the] user in Stupek to act as a

well-know[n role] of administrator for sending [an] alarm to all selected users rather than Managed device.”

While we concur with the examiner’s claim interpretation, we disagree with the examiner’s findings regarding the teachings of Stupek. Claim 1 recites “ a profile table containing profiles of each one of said plurality of users”, “processing and transmitting means enabling an administrator associated with said server to transmit alarm messages to the list of users.” Independent claims 8 and 15 contain similar limitations. Thus, the claims recite at least two types of entities: an administrator and a user. The claims do not define what makes an entity an administrator, other than an entity who is enabled to transmit messages to users. Further, the claims do not define what makes an entity a user, other than having a profile in the profile table and being associated with a workstation.

Stupek teaches a management system where a management network allows for the management of both hardware and software. The system makes use of a management server, managed elements and a client system. The managed elements can be computers or other network equipment. See column 4, lines 14 through 43. A user can use the management server to select a managed element and view information about the device. See column 6, lines 7 through 14. The user, through the management server, can set a threshold which is used to monitor an event in the managed device, the management server then provides a notification or message to the user when the conditions are met, an event occurs. See column 7, lines 10 through 20.

While we consider the event messages of Stupek to meet the claimed alarm messages, we do not find that these messages are generated by one entity, an administrator, and transmitted to another entity, a user, selected from a profile table containing profiles of users. We do not find, as the examiner asserts, that Stupek, in column 5, lines 46-67, teaches a profile table from which users, to receive the event messages, are selected. Rather, we find that that the cited section of Stupek teaches that the management server maintains a database of data to be monitored and that this database includes user preferences. Thus, we find no teaching or suggestion in Stupek that the system makes use of a profile table to identify a list of users to receive an event notification and we will not sustain the examiner's rejection of claims 1, 8 and 15 under 35 U.S.C. § 103.

The examiner has rejected claims 2 through 4, 7, 9, 10, 11, 14, 15, 17, 18 and 21 under 35 U.S.C. § 103(a) as being unpatentable over Stupek in view of Drala. The examiner has not asserted, nor do we find that Darla teaches or suggests modifying Stupek such that the system makes use of a profile table to identify a list of users to receive an event notification. Accordingly, we will not sustain the examiner's rejection of claims 2 through 4, 7, 9, 10, 11, 14, 15, 17, 18 and 21 under 35 U.S.C. § 103(a).

The examiner has rejected claims 6, 13 and 20 under 35 U.S.C. § 103(a) as being unpatentable over Stupek in view of Drala and Cote. The examiner has not asserted, nor do we find that either Darla or Cote teaches or suggests

modifying Stupek such that the system makes use of a profile table to identify a list of users to receive an event notification. Accordingly, we will not sustain the examiner's rejection of claims 6, 13 and 20 under 35 U.S.C. § 103(a).

Rejection based upon Ruckdashel

Appellant argues, on pages 23 and 24 of the brief, that Ruckdashel does not teach an administrator sending alarm messages to a list of users selected from a plurality of users as claimed in the independent claims.

The examiner responds that the statement of the rejection and citations of Ruckdashel in the rejection are self-explanatory.

We disagree with the examiner. Ruckdashel teaches a system where by a user's individual scheduling information is analyzed and when the event arrives the user is notified in a manner of their choosing i.e. paging, e-mail or wireless phone. See abstract. Ruckdashel teaches two entities the individual users and an administrator. Ruckdashel teaches that the administrator performs tasks such as managing the software that provides the notification. However, Ruckdashel does not teach that the administrator transmits the messages to the list of users, rather the users sign up and the system transmits the messages. We note that Ruckdashel identifies that systems such as Microsoft Schedule+ are used to provide the user's schedule information. The role of the claimed administrator may be inherent to such scheduling programs as it is our experience with such programs that a person setting up a meeting with such

programs typically selects invitees to the meeting from a table of users with profiles. However, the examiner has not made this argument nor is there any evidence of record to support such a finding. Accordingly, we do not find that Ruckdashel anticipated claims 1, 8, 15 and 22 through 24.

Rejections based upon Raffel

Appellant argues, on page 22 of the brief, that Raffel does not teach an administrator associated with a server sending alarm messages to a list of users selected from a plurality of users within a profile table. Appellant reasons that Raffel is directed to a system for providing transactional information of deals, contracts, accounts and leads over the internet and where the administrator can configure the system to notify users every time there is new or changed information for accounts or deals for which the user has access. Appellant states, on pages 22 and 23 of the brief:

While Raffel may teach sending a notification to a user, there is nothing in Raffel that teaches that an administrator associated with a server sends an alarm message to a list of users, selected from a plurality of users, within a profile table. To the contrary, the administrator in Raffel configures the system to automatically send out notifications as stated in paragraph 0082 of Raffel.

Further, appellant states “[c]laims 1, 8 and 15 of the present invention recite that the administrator sends the alarm to a list of users, selected from the plurality of users within the profile table. This is a manual process performed by an

administrator and not an automatic process such as taught by Raffel.” Appellant presents similar arguments on page 8 of the reply brief.

While we agree with the appellant’s description of Raffel, we are not persuaded by appellant’s argument as it is not commensurate with the scope of the claim. We find no limitation claim 1 which limits the processing and transmitting of the alarm message by the administrator to a manual process. Appellant’s specification identifies, on page 4, that messages can be generated automatically. Further, claim 4, which further limits claim 1, identifies that the alarm message is automatically sent by the processing and transmitting means. Thus, we consider the scope of claim 1 to be broad enough to include both a manual transmission and an automatic transmission of the alarm message. As appellant admits, on page 23 of the brief “the administrator in Raffel configures the system to automatically send out notifications.” Accordingly, we sustain the examiner’s rejection of claim 1 under 35 U.S.C. § 102.

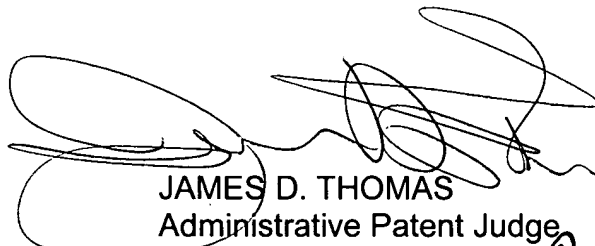
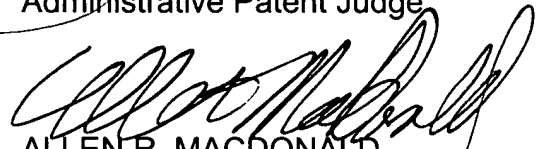

Appellant has presented no arguments directed to why claims 8, 15 and 22 through 24 are separately patentable from claim 1. Accordingly we group claims 8, 15 and 22 through 25 with claim 1 and we sustain the examiner’s rejection of these claims under 35 U.S.C. § 102 for the reasons provided with respect to claim 1.

Conclusion

In summary, we sustain the examiner's rejection of claims 1, 8, 15 and 22 through 24 under 35 U.S.C. § 102 as being anticipated by Raffel. However, we will not sustain the examiner's rejection of claims 1, 8, 15 and 22 through 24 under 35 U.S.C. § 102 as being anticipated by Ruckdashel or the examiner's rejections of claims 1 through 24 under 35 U.S.C. § 103. The decision of the examiner is affirmed-in-part.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a)(1)(iv).

AFFIRMED-IN-PART

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JAMES D. THOMAS)	
Administrative Patent Judge)	
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ALLEN R. MACDONALD)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
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